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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,477	07/17/2003	Wynn Peter Holloway	P432	2890
7590	04/21/2005		EXAMINER	
PAUL E MILLIKEN 9061 WALL STREET, NW MASSILLON, OH 44646-1676			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	
DATE MAILED: 04/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/621,477	HOLLOWAY, WYNN PETER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Chi Q Nguyen	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.--

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 July 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 and 18-22 is/are rejected.
- 7) Claim(s) 11-17 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: Attachment.

## **DETAILED ACTION**

### ***Claim Objections***

Claims 1-17 are objected to because of the following informalities: the dependent claims 2-17 preamble are not consistent with the independent claim 1. Specifically, the independent claim 1 is set forth a building panel. The dependent claims 2-17 should be "The building panel..." Appropriate correction is required.

Claim 1 is objected to because of the following informalities: the applicant is advised to remove "" for I. Appropriate correction is required.

Claim 8 is objected to because of the following informalities: the applicant is advised to remove " for U. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, the phrase "may" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 6, the phrase "at least some" renders the claim indefinite because it is unclear how many columns. Clarification is required.

Regarding claim 21, the phrase "may be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 22, it is unclear what is the "pr" stands for. Correction is required.

Regarding method claims 18-22, it is unclear what is the method of constructing wall because there are not method steps provided. Correction is required.

Regarding claim 1, the claimed language is confusing; specifically, "having one face covered in a water resistant board with the other face also covered in a board material".

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

As best understood, claims 1-5, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht (US 5,848,508) in view of Howe (US 6,604,715).

In regard claims 1, 4, Albrecht teaches a building panel comprising a rectangular frame (fig. 1) having one face covered in a water resistant board with the other face covered in a board material (see abstract), the frame having top, bottom rails 32, which are joined together by a plurality of spaced apart I beams 30 extending therebetween

characterized in that two of the I beams also form the sides of the frame and have recessed sides facing outwardly of the panel, with the space between the boards filled with thermal insulation 24 (fig. 2).

Albrecht does not specifically teach I beam is made out of wood composite and having upper, lower flanges formed from plywood and web comprising a rigid cellular material. Howe teaches panel including wood composite I-beam 66 (col. 6, line 36, Fig. 6). At the time of the invention, it would have been to a person of ordinary skill in the art to substitute Albrecht aluminum I-beam for Howe's wood composite I-beam having upper, lower flanges. The motivation for doing so would have been to save material cost because the aluminum tends to cost higher than composite wood material.

In regard claim 2, Albrecht teaches the claimed invention as stated except for the external face is made out of oriented strand board (OSB). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have external face made out of OSB, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Additionally, the oriented stand board is well known in the building construction art, wall, etc.

In regard claim 3, Albrecht teaches the claimed invention including exterior panel 20 is typically formed of exterior grade hardboard paneling (col. 2, lines 43-45). Since the Applicant's claimed language not positively cited such as "may comprises" therefore it would have been obvious to have a board panel having a plastics material layer on its

internal surfaces. The motivation for doing so would have to provide water resistant to the wall.

In regard claim 5, Albrecht teaches the claimed invention including a plurality of intermediate columns C (see attached figure 1) extend between the top and bottom rails 32 and located one column C between each pair of adjacent beams 30, each column comprising a rigid cellular centre having sides formed from a suitable board.

In regard claim 10, Albrecht teaches the claimed invention including adjacent wall panels are linked together within recess of the beams (fig. 1).

As best understood, claims 6-8 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht in view of Howe and further in view of Bennenk (US 5,815,989).

In regard claim 6, Albrecht, Howe teach the claimed invention as stated except for the columns have a hollow conduit along the middle of the column for its full length, the conduit aligning with apertures formed in either or both the top and bottom rails. Bennenk teaches panel having exterior, interior faces 1, 2, I-beam 5, intermediate column 10 having hollow body or conduit extends from top to bottom of the panel's length (fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Albrecht, Howe with Bennenk for the intermediate column having hollow body. The motivation for doing so would have been to provide spaces for routing cable wires.

In regard claim 7, Albrecht, Howe, and Bennenk teach the claimed invention except for the conduits are rectangular. It would have been obvious to have conduits in rectangular shapes as a matter of design choice for desirable application.

In regard claim 8, Albrecht teaches the claimed invention including the top, and bottom rails 32 having U-section and each of rails comprises a flat base, two extending arms with a recess in between (fig. 1).

In regard method claims 18-22, Albrecht, Howe, and Bennenk teach the claimed invention as stated except for the method of forming a wall. Since the Applicant's claims do not specifically provide any method steps, therefore, the examiner considers this to be obvious method of setting up device because in forming an insulated wall, one must obviously position frames or beams along with columns, secure insulated wall panels onto columns and connect other panels within recesses of the beams.

As best understood, claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht in view of Howe and Bennenk and further in view of Jonas (US 4,125,984).

Albrecht, Howe, and Bennenk teach the claimed invention as stated except for the I-beams are provided with dowels for fixing post to a panel. Jonas teaches building panel construction including panel 11, post 26 secured to the panel 11 by dowels (figs. 12-13). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Albrecht, Howe, and Bennenk with Jonas for dowels fastening the panels and posts together. The motivation for doing so would have been to provide more securement for wall system.

***Allowable Subject Matter***

Claims 11-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

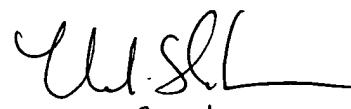
***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Denucci, Lamberet, Buzzella, Brandes, Seng, Record, Schmechel, Phillips, and Landheer teach wall panel.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

4/13/05  
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